REMARKS/ARGUMENTS

In the Office Action dated December 9, 2004, the Examiner rejected all pending claims over the teachings of US Patent 5,778,389 granted to Pruett either alone or in combination with US Patent 5,764,972 granted to Crouse.

An Examiner Interview was held by telephone on March 8, 2005. Present in the interview were Examiner Woo, Inventor Ramaprakash Sathyanarayan and the undersigned attorney. During the interview, the Examiner was asked the following three questions: (1) the Office Action states that US Patent 5,778,389 describes spawning a process (see last line on page 2 of Office Action and lines 3-4 on page 4 of Office Action), but the undersigned is unable to find spawning in this entire patent and can the Examiner show where is creation of a new process disclosed? (2) the Office Action states that US Patent 5,778,389 discloses a limit in column 5 lines 13-31, but the undersigned is unable to find any limits in this citation and can the Examiner show where the limit is disclosed? (3) the Office Action states that US Patent 5,778,389 discloses an email in column 2 lines 1-30, but the undersigned is unable to find any email in this citation and can the Examiner show where the email is disclosed.

The Examiner's response to question (1) was that a new process was created by Pruett after step 130 in FIG. 2A. The Examiner did not provide any support or rationale for his position as to where was this disclosed, other than to point to FIG. 2A, box 130. The Examiner said that after a decision was made in step 130, one of the branches YES/NO is taken and a new process is created.

The undersigned asked for an explanation as to what made the Examiner think a new process was created after step 130, but the Examiner didn't provide the explanation. The undersigned also asked if a new process was created in any of the other Pruett's steps (such as step 110 and 120) and the Examiner said that no new process was created in these other steps. Then the undersigned asked why was a new process created after step 130 but not after steps 120 and 110, but the Examiner gave no explanation. The Examiner simply stated that there was a disagreement and that Applicant should file a written response which will be considered.

Regarding questions (2) and (3) the Examiner said that while it appears that limits and emails are not disclosed by Pruett, further review is necessary.

The Examiner further stated that no agreement was reached on any of the three questions.

Claim 1 was rejected over the teachings of Pruett's patent with the Examiner explaining the rejection at the bottom of page 2 and on page 3 of the Office Action. In explaining the rejection the Examiner stated in the last line of page 2 that Pruett discloses "spawning a new process." In support the Examiner stated in parenthesis in the bottom line of page 2 and first two lines of page 3 of the Office Action "(130, processing directory, col. 5, lines 13-31, if directory exists, then moves to next processing of processing directory)."

Applicant respectfully traverses the Examiner's position that a new process is spawned by Pruett. Applicant reproduces below a portion of Pruett's FIG. 2A containing box 130 which the Examiner cites for spawning a process.
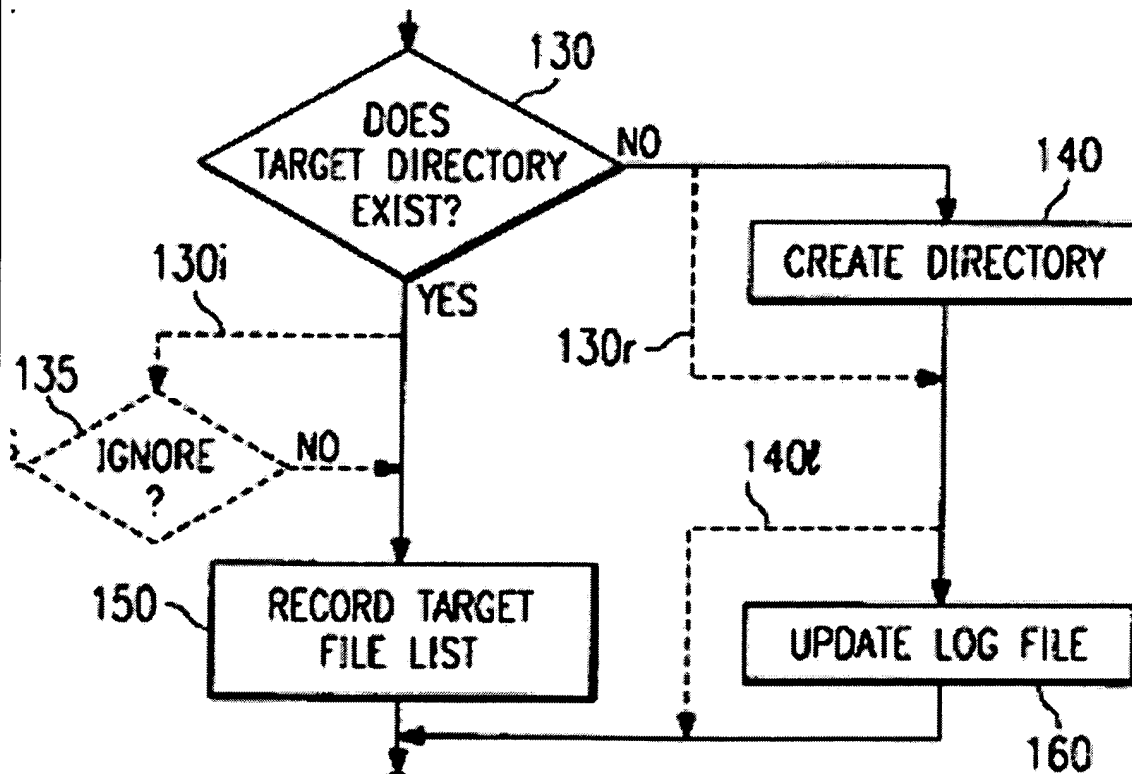
As can be seen from the above figure, from box 130 execution of a current process proceeds to box 150 if the decision is YES and otherwise proceeds to box 140 if the decision is NO. Note that execution proceeds from box 130 along dashed lines 130r and 130i (instead of solid lines) when certain qualifiers are included, as stated in column 5 line 7 by Pruett.

Nothing in the above drawing indicates that a new process is spawned, in either or both branches from box 130. Instead, Pruett's execution, of all boxes, appears to be performed only in the current process.

A detailed explanation of the above drawing is provided by Pruett as follows, at column 5 line 46 to column 6 line 3, which are reproduced below for convenience:

> the method proceeds to decisional step 130, where it is determined whether a target directory with the name given by the user in the invocation command exists. If the target directory exists, the method then proceeds to step 150.
>
> If the user specified an action file with the "/I:" qualifier upon execution, the method proceeds from decisional step 130 to decisional step 135, as illustrated by path 130i. At decisional step 135, it is determined whether the action specified in the action file with respect to the target directory located in step 130 is to "ignore" the directory, in which case the method proceeds step 290.
>
> If the target directory located in step 130 is not to be ignored, the method proceeds from step 135 to step 150, where it is determined what files, if any, are in the target directory, and the names of the target files are recorded. The method then proceeds to decisional step 170.
>
> Returning to decisional step 130, if the target directory does not exist, the method proceeds to step 140, where the target directory is created. The method then proceeds to step 160. However, if the "/R" qualifier was included in the invocation command, indicating a desire to "report only" the actions required to synchronize the target and source directories, then the method proceeds from step 130 directly to step 160, as illustrated by path 130r.

As seen by reading the above-quoted text from Pruett's patent, there is **no support whatsoever for spawning a new process** as recited in Claim 1. Spawning a new process is a simple concept, namely a new process is started, while the current process exists. Yet, nothing in Pruett's patent discloses or suggests spawning, as per Claim 1.

In the rejection of Claim 1, the Examiner also cited to column 5, lines 13-31 which are reproduced below.

SILICON VALLEY
ATENT GROUP LLP

0 Mission College Blvd
Suite 360
anta Clara, CA 95054
(408) 982-8200
FAX (408) 982-8210

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Referring to FIG. 2A, the method performed by program 14 begins at step 100. The method then proceeds to step 110, where the source directory information input by the user as a parameter in the invocation command is read and the source directory is located. Processing of the source directory begins at step 120. The method then proceeds to decisional step 130.

Note that the directory being processed beginning at step 120 may be the source directory originally specified in the invocation command, or it may be some subdirectory thereof, as will be made apparent from the description of steps 210 and 295 below. Whichever directory or subdirectory is being processed at step 120 shall be referred to herein as the source directory, for purposes of simplicity. Thus, it should be noted that when the term "source directory" appears herein, it does not necessarily refer to the source directory specified at execution, but may refer instead to some subdirectory thereof.

A careful review of the above-quoted text finds that there is nothing in this text about spawning a new process. Therefore the Examiner's statement is not supported by his own citation.

Even assuming that Pruett discloses spawning (or is modified to use spawning), there is nothing to indicate why such spawning should be performed after box 130 and not after any other box, such as box 120 or box 170. Even assuming that Pruett discloses spawning (or is modified to use spawning) in box 130, there is nothing to indicate why such spawning should be performed only in case a directory doesn't exist (i.e. the NO branch) but not performed in case a directory exists (i.e. the YES branch) . Even assuming that Pruett discloses spawning only in case of a directory doesn't exist, there is nothing to indicate what happens thereafter, i.e. what does the current process do and what does the new process do (i.e. what happens after boxes 150 and 160). It is unclear, even under all these assumptions about Pruett's patent, as to which process copies a file.

Applicant respectfully submits that **Applicant is not trying to patent just the spawning of a process or just the copying of files and/or directories**. Instead,

Applicant's invention is related to a combination of conditional spawning while copying items such as files or directories, as set forth in Claim 1 which is reproduced below:

> A method of copying a plurality of items implemented in a computer, the method comprising:
> if an item is a directory, spawning a new process; and
> if the item is a file, copying the file;
> wherein the new process if spawned executes simultaneously or contemporaneously with a current process that performs said spawning, and the new process performs the act of spawning or copying with another item in the directory; and
> wherein the current process repeats the act of spawning or copying with yet another item.

Applicant submits that Pruett's patent does not disclose or suggest such specific limitations on copying in the context of spawning.

For one or more of the above-discussed reasons, Applicant respectfully requests the Examiner to withdraw the rejection of Claim 1.

All remaining claims that are currently pending are believed to be patentable at least because there is no prior art for copying with spawning. The Examiner's rejections of the remaining claims are replete with errors and unsupportable positions, examples of which are discussed briefly below. Note that the following discussion is not an exhaustive list of all the errors but merely exemplary of many problems inherent in the Office Action.

Claim 30 was rejected in the Office Action over a disclosure of an email message by Pruett. In rejecting Claim 30, the Examiner cited to column 2, lines 1-30 which are reproduced below:

> According to one embodiment of the present invention, a method for automatically synchronizing file directories in a computer system is provided that sequentially selects one of a first plurality of files, determines whether a second plurality of files includes a file substantially similar to the selected one of the first plurality of files, and in response to such determination, copies the selected one of the first plurality of files.

SILICON VALLEY
ATENT GROUP LLP

0 Mission College Blvd
Suite 360
anta Clara, CA 95054
(408) 982-8200
FAX (408) 982-8210

According to an alternate embodiment of the present invention, a system for synchronizing file directories in a computer system is provided that comprises a first file directory having a first plurality of files stored on a first storage medium, a second file directory having a second plurality of files stored on a second storage medium, and a directory synchronizer for sequentially selecting one of the first plurality of files, for determining whether one of the second plurality of files is substantially similar to the selected file, and for copying the selected one of the first plurality of files into the second file directory.

A technical advantage of the present invention is that the method and system for automatically synchronizing a target and source directory accomplish synchronization efficiently, because only those files which are absent from or different in the target directory are copied from the source directory. Another technical advantage of the present invention is that files which are determined to be the same in the target and source directories are automatically left unchanged, thus eliminating the redundant copying of data from the source directory to the target directory.

Nothing in the above-quoted text discloses or suggests the use of an email message. This is just one example of Examiner's citation to Pruett's text which does not support a rejection. Hence this is an additional reason for the patentability of Claim 30.

Moreover, certain claims (such as Claims 4 and 31) require the use of a limit, which is nowhere disclosed or suggested by Pruett in the undersigned's review of this patent. In rejecting Claim 4, the Examiner cited to column 5, lines 13-31 which are reproduced above, on page 5 of this response. Once again, there is nothing in this Examiner-cited text from Pruett which even remotely suggests using a limit. Hence this is an additional reason for the patentability of Claims 4 and 31.

Also, certain claims (such as Claim 33) require the checking if a link is pointing to itself, which is nowhere disclosed or suggested by Pruett. In rejecting Claim 33, the Examiner cited to column 5, lines 13-31 which are reproduced above, on page 5 of this response. Once again, there is nothing in this Examiner-cited text from Pruett which even discloses or suggests such checking. Hence this is an additional reason for the patentability of Claim 33.

In rejecting Claim 35, the Examiner stated that Pruett discloses that his "process executes in parallel with any new process spawned by the repeating, and cited to column 5, lines 13-31 which are reproduced above, on page 5 of this response. Once again, there is nothing in this Examiner-cited text from Pruett which even remotely suggests parallel execution.

In rejecting Claim 36, the Examiner stated that Pruett discloses that the number of processes corresponds to the number of directories in column 2 at lines 43-62 and in Fig. 1. However, the undersigned has carefully reviewed Pruett's disclosure and finds nothing whatsoever to support the Examiner's position. This Examiner-cited language is reproduced below and as can be seen by simply reading the following text, there is nothing here about the number of processes or the number of directories.

> An exemplary local area network (LAN) 8 constructed in accordance with the invention is shown in FIG. 1. LAN 8 includes a file server 10 and a client workstation 60. File server 10 and client 60 are connected to a network bus 50 by means of network interface systems 11 and 61, respectively. Server 10 has a microprocessor 12 which contains random access memory (RAM) 13. Microprocessor 12 is in communication with network interface system 11. A keyboard 15 and a monitor 16 in communication with microprocessor 12 provide input and output means, respectively, for a user to communicate with microprocessor 12. Microprocessor 12 also communicates with mass storage device 20, which may comprise, for example, a hard disk drive. Storage device 20 includes a plurality of logical drives 21 through 24. Logical drive 21 is operable to store data organized in a root directory 30, a first plurality of files 31, a subdirectory 32, and a second plurality of files 33. Logical drive 24 includes a root directory 40, which contains a directory synchronizer program 41 constructed in accordance with the present invention.

Claim 36 is therefore patentable for at least this additional reason.

Applicant also respectfully traverses the Examiner's motivation for modifying the teachings of Pruett with the teachings of Crouse. The Examiner stated the motivation at the end of page 7 of the above-identified Office Action as follows "motivated to use such a combination because that would provide Crouse's system the storing data in temporary

buffer to provide efficient data transferring method in the data management system."
There are several defects in this motivation. First, in applying this motivation, one would
end up with a modified Crouse's system. However, the rejection of Claims 11 and 32 cites
a modified Pruett's system, not a modified Crouse's system. As Crouse's modified system
is not used to reject Claims 11 and 32, the motivation is defective. Second, the motivation
is impermissibly broad because under this logic each and every data transferring method
in the world should be storing data in temporary buffer. Claims 11 and 32 are therefore
patentable for at least these additional reasons.

Finally, in the most recently filed amendment dated July 6, 2004, Applicant made
the following request which was ignored in the above-identified Office Action, and for this
reason **Applicant once again repeats this previously-made request**. Specifically,
Applicant requests the Examiner to consider the Information Disclosure Statement (IDS) of
October 6, 2003 and **return the PTO-1449 form**. The undersigned has confirmed that
both the IDS (2 pages) and PTO-1449 form (1 page) are present in the Image File
Wrapper (IFW), therefore the Examiner has no reason for failing to return this form.

In view of the above remarks, Applicant submits that all pending claims are in form
for allowance and allowance thereof is respectfully requested. Should there be any
questions concerning this paper, please call the undersigned at (408) 982-8200, ext. 3.

Via Express Mail Label No. **EV 581 856 240 US**

Respectfully submitted,

Omkar K. Suryadevara
Attorney for Applicant
Reg. No. 36,320

SILICON VALLEY
ATENT GROUP LLP

0 Mission College Blvd
Suite 360
anta Clara, CA 95054
(408) 982-8200
FAX (408) 982-8210